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LERNER, MARTIN				
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/626,050

Applicant(s)

DAVIS ET AL.

Examiner

MARTIN LERNER

Art Unit

2626

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 31 December 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 to 2 and 4 to 6 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1 to 2 and 4 to 6 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/S508)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1 to 2 and 4 to 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over *Moore et al.* ('041) in view of *Yu et al.*

Concerning independent claim 1, *Moore et al.* ('041) discloses a method for responding to messages, comprising:

"providing a speech processing device serving as a bridge between said teleconferencing system and said messaging system, the speech processing device being directly coupled between the teleconferencing system and the instant messaging system or coupled between the teleconferencing system and the instant messaging system via a data network, the speech processing device being configured to convert a speech input into a text message or a text message into a speech output" – intelligent media translator (IMT) 70 ("a speech processing device") receives speech signals, and a speech-to-text conversion process converts the received speech signals into corresponding textual information to provide the textual information ultimately to a messaging client, receives textual information, and a text-to-speech conversion process

converts the received textual information into corresponding speech signals (Page 10: ¶[0104]: Figure 1); service provider system 30 may include, without limitation, conference call establishment (Page 7: ¶[0087]); thus, service provider system 30 is equivalent to "said teleconferencing system"; instant messaging (IM) service 22 ("the instant messaging system") communicates instant messages through chat client 14 so that text instant messages can be exchanged in real time with one or more parties (Page 7, ¶[0077]- ¶[0082]: Figure 1);

"receiving at said speech processing device a speech input received by said teleconferencing system from a telephone connected to the teleconferencing system" – speech information from a caller using telephone 62 is carried through PSTN 60, and is directed to speech-to-text module 74 through service provider system 30 ("said teleconferencing system") via line 80 (Page 10, ¶[0118]: Figure 1);

"transcribing the speech into a first text message by the speech processing device" – the packetized data stream is directed to speech-to-text module 74 of intelligent media translator 70 ("the speech processing device") to convert the received speech signals into a textual representation (Page 10: ¶[0105]: Figure 1);

"transmitting the first text message to a plurality of instant messaging devices participating in an instant messaging based conference managed by the instant messaging system" – the textual information may then be sent to a text chat interface of chat client 14, perhaps in the form of a typical chat message, via network 20 and perhaps involving IM service 22; an optional instant messaging sender 79a is depicted along connection 76 representing adaptation of the speech-to-text module 74 to carry

on instant communications with chat client 14 (Page 10: ¶[0105]; Figure 1); a chat client 14 supports communications with one or more principals, and instant messaging through which text messages can be exchanged in real time with one or more other parties ("to a plurality of instant messaging devices participating in an instant messaging based conference") (Page 6: ¶[0075], Page 7: ¶[0082]);

"receiving at the speech processing device a second text message from any one among the plurality of instant messaging devices participating in the instant messaging based conference" – intelligent media translator (IMT) 70 may comprise a port for receiving textual information from a messaging client (Page 10: ¶[0104]; Figure 1); chat client 14 may be implemented by or based upon well known instant messaging (Page 6, ¶[0075]; Figure 1);

"converting the second text message to a speech output" – intelligent media translator 70 comprises a text-to-speech conversion process for converting the received textual information into corresponding speech signals via a text-to-speech module 72 (Page 10: ¶[0103] - ¶[0104]; Figure 1);

"transmitting the speech output to a plurality of telephones participating in a teleconference managed by the teleconferencing system" – speech signals are sent through a communications medium, such as a telephone connection or RTP session, to a chat client 14 or telephone 62 (Page 10: ¶[0103] - ¶[0104]; Figure 1); telephone 62 is connected through service provider 30; service provider system 30 may include, without limitation, conference call establishment (Page 7: ¶[0087]); thus, service provider system 30 is equivalent to "said teleconferencing system", which transmits

teleconferencing calls through PSTN 60 to telephone 62, or to IP telephone 92 through VoIP gateway 54.

Concerning independent claim 1, the only element not expressly disclosed by *Moore et al.* ('041) is a speech processing device "serving as a bridge between said teleconferencing system and said messaging system, the device being directly coupled between the teleconferencing system and the instant messaging system or coupled between the teleconferencing system and the instant messaging system via a data network". *Moore et al.* ('041) discloses all of a speech processing device being configured to convert a speech input into a text message or a text message into speech, a teleconferencing system, and an instant messaging system, but may connect, or couple, them in a somewhat different way, insofar as intelligent media translator 70 ("a speech processing device") is coupled to service provider system 30 ("said teleconferencing system") via line 80, and intelligent chat gateway 50 ("said teleconferencing system") is coupled to IM service 22 ("said instant messaging system") via line 86, but intelligent media translator 70 ("a speech processing system") is not clearly directly coupled to IM service 22 ("said instant messaging system"), and thereby does not serve as a bridge between the teleconferencing system and the messaging system. However, it is maintained that, in an absence of unexpected advantages, it is immaterial, and a question only of 'design choice', as to how all of the systems and subsystems are coupled together, and what is connected to what, as it is well known

that functionalities may be distributed in an arbitrary manner within communication networks.

Concerning independent claim 1, moreover, *Yu et al.* teaches a method for wireless instant messaging, where a mobile station (MS), such as a cellular telephone, may be registered with an instant messaging (IM) server as being available to receive instant messages via an IM proxy. (Abstract) Exemplary IM client terminals 64, 66 are shown as personal computers. An IM server 68 coordinates or facilitates instant messaging between IM client terminals 64, 66. (Column 10, Lines 47 to 65: Figure 6) When mobile station (MS) 80 sends an instant message destined for an IM client, service node (SN) 70 receives the message, converts it to a form suitable for transmission to the destination IM client, and transmits the message to the destination IM client. (Column 12, Lines 49 to 57: Figure 6) SN 70 preferably includes IVRU (intelligent voice response unit) 100 functionality and text/speech conversion functionality represented by blocks 100 and 102. Text/speech converter 102 allows SN 70 to convert between text messages and speech signals. (Column 13, Lines 23 to 46: Figure 7) Thus, SN 70 includes a functionality of "a speech processing device". Furthermore, *Yu et al.* says that, while communication has focused on communication of instant messages between a pair of users, communication could be facilitated to extend between three or more parties at once, thereby providing for real-time conferencing. To provide the functionality, a service node (SN) could serve as a conference bridge, maintaining a record of the parties to a conference and then multicasting instant messages between the conference participants. (Column 21, Line

62 to Column 22, Line 4) Thus, *Yu et al.* suggests "a teleconferencing system" at service node 70. Given that *Yu et al.* suggests both IVRU 100/text-to-speech converter 102 and a teleconferencing bridge are placed at a service node 70, then IVRU 100/text-to-speech converter 102 ("the speech processing device") is configured "serving as a bridge between" a conferencing bridge ("the teleconferencing system") and IM server 68 ("the instant messaging system"), and is "coupled directed between" them, insofar as IVRU 100/text-to-speech converter 102 is directly coupled to a conference bridge within a service node 70. *Yu et al.* teaches an objective of providing an instant messaging service in a wireless domain. (Column 7, Lines 39 to 50) It would have been obvious to one having ordinary skill in the art to utilize an architecture where an intelligent voice response unit and text/speech conversion device is coupled directly between a teleconferencing system and an instant messaging system as taught by *Yu et al.* in a message response system of *Moore et al.* ('041) for a purpose of providing an instant message service in a wireless domain.

Concerning claim 2, *Moore et al.* ('041) discloses a profile is maintained for a given user as a preference as to how synthesized speech presented to him is rendered ("personalized voice output at the telephones"); aspects of speech rendering include whether a male or female voice is preferred, approximate speaker age, vocal characteristics, inflection, and local dialect ("a simulated voice print of the user") (¶[0113] : Figure 1).

Concerning claims 4 and 5, *Moore et al.* ('041) discloses that in the course of converting speech and other audible signals into corresponding symbols or text, IMT 70 may also perform translation among different spoken and written languages, for example, converting English text to Spanish speech and vice-versa; language preferences or compatibilities of one or both of the parties may be known or maintained in a profile database or expressed by devices ("is specified by a profile associated with said identified user"); implicitly, a user is identified in order to be associated with a profile ("identifying a user associated with said telephone"). (Page 11: ¶[0112])

Concerning claim 6, *Moore et al.* ('041) discloses that, after the packetized data stream is converted into a textual representation by speech-to-text module 74, the textual information is then sent via network 20 ("transmitting a text stream"). (Page 10: ¶[0105]; Figure 1)

Response to Arguments

3. Applicants' arguments filed 31 December 2008 have been fully considered but they are not persuasive.

Firstly, Applicants argue that *Moore et al.* ('041) has nothing to do with bridging an existing instant messaging system and an existing teleconference system using a speech processing device. Applicants admit that *Moore et al.* ('041) mentions that services provided by service provider system 30 may include conference call establishment at ¶[0087], but maintains that an ability to establish a conference call does not make service provider system 30 into a teleconferencing system. Applicants

say that telephone 62 is connected to PSTN 60, as all traditional telephones are connected to a PSTN, but not to a teleconferencing system. These arguments are not persuasive.

One having ordinary skill in the art would understand that an ability to establish a conference call is equivalent to a teleconferencing system. Applicants have not presented any explanation of why an ability to establish a conference call is not equivalent to a teleconferencing system. Indeed, it would appear to be self-evident that an ability to establish a conference call necessarily is precisely the same thing as what is performed by a teleconferencing system. Applicants admit that *Moore et al.* ('041) discloses that service provider system 30 includes an ability to establish a conference call. Thus, it is respectfully submitted that it defies common sense to maintain that *Moore et al.* ('041) does not provide a teleconferencing system.

Similarly, the fact that *Moore et al.* ('041) discloses that telephone 62 is connected to PSTN 60, and not directly to a teleconferencing system, does not in any manner render the claims patentable. Conventionally, any teleconferencing services provided by a telephone company are available only via a PSTN. Independent claim 1 may include the limitation that speech input is received by the "teleconferencing system from a telephone connected to the teleconferencing system". However, the fact that *Moore et al.* ('041) discloses a telephone 62 that is connected to service provider system 30 through PSTN 60 cannot be read to imply that telephone 62 is not connected to service provider system 30. As should be self-evident, service provider system 30 includes an ability to establish a conference call, which is equivalent to a

teleconferencing system. Certainly, an ability to establish teleconferencing could reside solely within telephone 62, but if a telephone is connected to a teleconferencing system supplied by a telephone company through an intermediate PSTN, then one skilled in the art would necessarily conclude that the telephone is still connected to a teleconferencing system.

Nor does Applicants' amendment adding the term "existing" to modify the teleconferencing system and the instant messaging system present any significant new limitation to independent claim 1. If an element is disclosed by the prior art, then that element is "existing". There is nothing in Applicants' Specification that suggests that the speech processing device is somehow the only new element that is adapted and added onto a pre-existing instant messaging system and a pre-existing teleconferencing system so as to provide a basis for something new. Moreover, Applicants' claims are directed to a method of using a system rather than a method of improving an existing system, so that any distinction between what was a prior existent element and a newly added element does not carry any patentable weight.

Secondly, Applicants argue an ability of VoIP gateway 54 to route telephone calls between an IP telephone and a conventional telephone does not make intelligent chat gateway 52 or gateway system 50 into a teleconferencing system.

However, it is contended that the rejection does not, in any way, maintain that VoIP gateway 54 is to be construed as a teleconferencing system. Generally, gateway system 50 provides the overall communication system 10 with an ability to connect IP telephones to an instant messaging system as well as conventional telephones.

Furthermore, gateway system 50 is connected to a variety of elements in the network to facilitate that ability. Thus, Figure 1 of *Moore et al.* ('041) shows how gateway system 50, intelligent chat gateway 52, and VoIP gateway 54 are connected to chat client 14, intelligent media translator 70, PSTN 60, billing system 40, network 20, IM service 22, and service provider system 30. The point that the rejection is setting forth by describing gateway system 50 is that intelligent media translator 70 can be understood to be serving as a bridge between a teleconferencing system of service provider system 30 and a messaging system of IM service 22 if gateway system 50 is considered as an intermediate connection. That is, because gateway system 50 connects IM service 22, intelligent media translator 70, and service provider system 30, then it follows that intelligent media translator 70, or "a speech processing device", serves as a bridge between service provider system 30, or "an existing teleconferencing system", and IM service 22, or "an existing instant messaging system", through gateway system 50. The rejection does not contend that gateway system 50 serves in any fashion as a teleconferencing system.

A Final Rejection on the First Action is appropriate in response to Applicants' amendment filed 31 December 2008 because the claims are amended only in a minor way, introducing the term "existing" to describe the teleconferencing system and the instant messaging system. However, all the claims are directed to the same invention, and same prior art is relied upon in formulating the rejection. Moreover, no amendments to the claims were presented after final rejection, so there is no indication of new issues in an advisory action.

Therefore, a final rejection of claims 1 to 2 and 4 to 6 under 35 U.S.C. §103(a) as being unpatentable over *Moore et al.* ('041) in view of *Yu et al.* is proper.

Conclusion

4. This is a Request for Continued Examination of Applicants' earlier Application No. 10/626,050. All claims are drawn to the same invention claimed in the earlier application and could have been finally rejected on the grounds and art of record in the next Office Action if they had been entered in the earlier application. Accordingly, **THIS ACTION IS MADE FINAL** even though it is a first action in this case. See MPEP § 706.07(b). Applicants are reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no, however, event will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Martin Lerner whose telephone number is (571) 272-

7608. The examiner can normally be reached on 8:30 AM to 6:00 PM Monday to Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David R. Hudspeth can be reached on (571) 272-7843. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Martin Lerner/
Primary Examiner
Art Unit 2626
January 27, 2009